IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

OP.No. 32649 of 1999(J)
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PETITIONER:
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REENA GEORGE, PROPRIETOR,
PEARL ELECTRO TRADES
KURIACHIRA, TRICHUR.

BY ADV. SRI.B.KRISHNA MANI
SRI.V.PREMCHAND

RESPONDENTS:
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1. THE APPELLATE ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, OFFICE OF THE
APPELLATE ASSISTANT COMMISSIONER
COMMERCIAL TAXES, TRICHUR.

2. THE SALES TAX OFFICER III,
IVTH CIRCLE, TRICHUR.

3. THE SECRETARY TO GOVT.
TAXES(B) DEPARTMENT,
TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.55252/1999 IN O.P. NO.32649/1999

DISMISSED:

19.11.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE ASSESSMENT ORDER DT.6.11.90 IN RESPECT OF THE SALES TAX ASSESSED.

P2: TRUE COPY OF ASSESSMENT ORDER PASSED BY R3 DT.6.11.80.

P3: TRUE COPY OF ORDER PASSED BY R1.

P4: TRUE COPY OF ORDER PASSED BY R2 DT.13.11.91.

P5: TRUE COPY OF ORDER PASSED BY R2 DT.30.3.93.

P6: TRUE COPY OF APPEAL FILED BY PETITIONER BEFORE R1 DT.26.6.93.

P7: TRUE COPY OF PETITION FOR STAY FILED BY PETITIONER.

P8: TRUE COPY OF CENTRAL SALES TAX CONCESSIONAL FORM DT.31.5.88.

P9: TRUE COPY OF LETTER DT.14.11.90 ISSUED BY THE KERALA AGRICULTURAL UNIVERSITY.

P10: TRUE COPY OF ORDER DT.28.10.88.

P11: TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER TO THE FINANCE MINISTER OF KERALA.

P12: TRUE COPY OF REPLY DT.31.3.93 TO THE PETITIONER.

P13: TRUE COPY OF THE JUDGMENT IN O.P. NO.13745/93 OF THE HON'BLE HIGH COURT DT.16.12.98.

P14: TRUE COPY OF THE JUDGMENT IN WA NO.568/99 OF THE HON'BLE HIGH COURT.

P15: TRUE COPY OF MEMORANDUM OF APPEAL SUBMITTED BY THE PETITIONER.

P16: TRUE COPY OF THE ORDER DT.11.11.99 PASSED BY R1.

P17: TRUE COPY OF COMMUNICATION ISSUED BY THE MAR ATHANASIOUS COLLEGE OF ENGINEERING, KOTHAMANGALAM.

P18: TRUE COPY OF COMMUNICATION ISSUED BY THE KERALA AGRICULTURAL UNIVERSITY.

P19: TRUE COPY OF REPRESENTATION FILED BY M/S.KANNAN TRADING AGENCIES DT.23.12.1988 BEFORE THE GOVT. OF KERALA.

P20: TRUE COPY OF CERTIFICATE OF REMITTANCE CONFIRMING THE RECEIPT ON 4.3.91 AT THE TREASURY.

P21: TRUE COPY OF COVERING LETTER DT.29.10.93.

P22: TRUE COPY OF THE BANK RECEIPT DT.28.10.93.

TRUE COPY

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.32649 of 1999

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Dated this the 19th day of November, 2007.

JUDGMENT

The petitioner is challenging revised order issued by the Assessing Officer revising the sales tax assessment for 1988-89 pursuant to orders in appeal. In the first place, O.P. is not maintainable against revised assessment orders because if first appellate order was not acceptable, petitioner should have filed second appeal against the said order and if revised assessment is not in accordance with the direction issued by the appellate authority, petitioner could have filed another round of first appeal against revised orders. However, since O.P. was admitted eight years back and is pending, I have gone through the records. I find that dispute pertains to disallowance of petitioner's claim of exemption under Section 6(2) of the CST Act on the turnover of around Rs.3.32 lakhs. Obviously exemption is declined for want of C/D Forms. It is seen from the records that in appeal the petitioner claimed alternate relief of concessional rate under notification SRO 1046/76. Based on this claim the appellate authority remanded the matter to the officer and the officer in revised assessment proceedings considered petitioner's claim and though initially granted it, later rectified it

withdrawing concessional rate of 4% on the ground that notification does not provide for concessional rate for local sales. The petitioner has now come forward with a case that petitioner never claimed concessional rate, but only claimed exemption which is not substantiated with statutory documents. I do not find any bonafides in the petitioner's claim because petitioner has not substantiated his claim of exemption under Section 6(2) of the CST Act or concessional rate under abovereferred notification with documents or evidence as found by the authorities. The O.P. is therefore dismissed.

C.N.RAMACHANDRAN NAIR
Judge

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